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SUBJECT: MOJ APPEALS TO REVOKE REGISTRATION AND SHUT DOWN
THE ELECTION MONITORING CENTER

REF: BAKU 128

Classified By: AMBASSADOR ANNE E. DERSE PER 1.4(B,D).

¶1. (C) SUMMARY: On April 28, the USAID-supported Election Monitoring Center (EMC) received notification that the Ministry of Justice has filed an appeal to revoke EMC's registration and disband the organization. The preliminary hearing is set for May 5. According to EMC's lawyer, the Ministry has no legal grounds to appeal for disbandment of an organization, and there is no precedent for such. Foreign Minister Mammadyarov, who was instrumental in securing the February registration of EMC, was furious when the Ambassador informed him of the step and promised to raise it with the President's Chief of Staff, noting that "someone" was working behind the scenes to undermine U.S. interests in democratic reforms. This move against EMC reminds us that there are those working actively to undermine reforms. We will work with Mammadyarov to reverse this step and fully expect to have additional such battles to fight in the run-up to the election. END SUMMARY

¶2. (SBU) On April 28, Anar Mammadli, the Executive Director of EMC, received a letter from the Khattai District Court notifying him for the first time that the Ministry of Justice (MOJ) had appealed to the court to revoke EMC's registration and to disband the organization. The letter was postmarked April 18. The MOJ requested the action to be effective immediately after the court's decision. Mammadli went to the court for the preliminary hearing at the appointed time of 1100 on April 29, to discover that the judge was "sick." The court postponed the preliminary hearing to May 5 at 1100. (NOTE: EMC was registered on February 1 after filing seven applications for registration over five years - reftel. The USG had raised the issue repeatedly at many levels of government for two years, including during a high-level democracy dialogue session between then-DRL A/S Lowenkron and Foreign Minister Mammadyarov.)

¶3. (C) On April 29, the DCM called Presidential Advisor Shahin Aliyev to register the Embassy's concern. Aliyev said he was not aware of the MOJ's appeal against EMC, but promised to look into it. On April 30, the Ambassador met with Foreign Minister Elmar Mammadyarov, expressing strong concern about the attack on EMC. The Foreign Minister was not aware of the appeal, but was dismayed and angered by the news. He noted that the Ministry of Foreign Affairs had worked hard to ensure EMC's registration in the first place, and said that "someone" was working from behind the scenes to undermine the achievement and U.S. support for democratic reform. He promised to look into the case, and said he would raise it with Presidential Chief of Staff Ramiz Mehdiyev.

¶4. (C) (COMMENT: EMC is the largest and most experienced

domestic monitoring organization. The ability of domestic observers to monitor and report instances of electoral fraud unfettered is critical to the fair and free conduct of October's election. The GOAJ's apparent move against EMC sends a worrying signal that some in the GOAJ are actively seeking to impede holding a fair and free election and U.S. efforts to support reform. It is particularly disappointing that what was considered by the U.S. and the international community as a positive step is now in danger. The Embassy has encouraged the National Democratic Institute to correct the MOJ's minor concerns. Background on the MOJ's appeal follows below.)

¶15. (SBU) The letter stipulated one legal basis for the appeal to deregister EMC: the fact that the individuals listed as EMC's founders had changed between EMC's previous applications for registration and the last (seventh) application. Specifically, one woman, Sevil Hamidova, was listed on previous applications for registration, but not the final application. This was not a problem at the time EMC was registered. (NOTE: Hamidova is Deputy Chair of the Citizens' Development Party, a member of the Azadliq bloc. Mammadli had removed her from the organization's founders after receiving an informal tip from a working-level MOJ contact that this was preventing EMC from being registered. Hamidova remains active in EMC.)

¶16. (SBU) According to a lawyer EMC consulted, the MOJ did not follow the proper legal course for appealing to deregister EMC. He said that the MOJ has the legal authority to send warning letters to an organization which has violated its charter. If it issues two such letters within a year, and the organization fails to address the problem, the ministry may -- but is not required to -- appeal to the court to deregister the organization. EMC received no letters of

warning, and it has only existed as a registered organization since February 1 -- not a year.

¶17. (SBU) The letter stipulated two legal grounds for the appeal to disband EMC as an organization. First, the MOJ claims that EMC changed its legal address without notifying the ministry, which it is required to do. According to EMC's lawyer, the MOJ has no legal grounds for appealing to disband an organization, and there is no precedent for such. Further, Mammadli maintains that while EMC changed its physical address, its legal address has not changed. EMC's lawyer stated that the question of legal address is a gray area, and that the GOAJ is operating on the assumption that the physical address is de-facto the legal address.

¶18. (SBU) The second reason listed as grounds for disbandment is that EMC failed to register its regional branches, which it is required to do. According to EMC's lawyer, once an organization makes an "internal declaration" that it has regional branches, it has one month to register the branches with the MOJ. While EMC does have representatives in seven regions -- with plans to establish itself in three more -- it had not "declared" them to be regional branches. Mammadli said he intended to register the groups once his representation in the remaining three regions was established, and his registration with the Ministry of Taxation and the Ministry of Labor and Social Protection was complete.

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